



European Securities and
Markets Authority

Reply form for the Consultation Paper on draft RTS on package orders for which there is a liq- uid market



10 November 2016

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA Discussion Paper on the trading obligation for derivatives under MiFIR, published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_ QUESTION_MIFID_PO_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

- if they respond to the question stated;
- contain a clear rationale, including on any related costs and benefits; and
- describe any alternatives that ESMA should consider.

Naming protocol

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA_MiFID_PO_NAMEOFCOMPANY_NAMEOFDOCUMENT.

e.g. if the respondent were ESMA, the name of the reply form would be:

ESMA_MiFID_PO_ESMA_REPLYFORM or

ESMA_MiFID_PO_ESMA_ANNEX1

Deadline

Responses must reach us by **3 January 2017**.

All contributions should be submitted online at www.esma.europa.eu under the heading ‘Your input/Consultations’.



Publication of responses

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and 'Data protection'.



Introduction

Please make your introductory comments below, if any:

< ESMA_COMMENT_MIFID_PO_0 >

The Nordic Securities Association (NSA) welcomes the opportunity to comment on ESMA's Consultation Paper regarding package orders (CP).

The NSA is a Nordic cooperation that works to promote a sound securities market primarily in the Nordic region. The NSA is formed by the Danish Securities Dealers Association (Børsmæglerforeningen), the Federation of Finnish Financial Services (Finanssialan Keskusliitto), the Norwegian Securities Dealers Association (Verdipapirforetakenes Forbund) and the Swedish Securities Dealers Association (Svenska Fondhandlareförbundet).

In addition to our replies to the questions in the CP, the NSA would like to provide the following general comments:

As a starting point, it is very positive that the co-legislators have decided to include a tailored transparency regime for package orders under MiFID II/MiFIR. Packages play a significant role in financial markets as they allow market participants and end-users to manage specific risks in an efficient and cost effective way.

However, the NSA notes that the CP solely focuses on derivatives products and discuss asset class specific criteria for the following asset classes: Interest Rate derivatives, Equity derivatives, Credit derivatives and Commodity derivatives. We are concerned that especially listed asset classes like Bonds and Equities are not covered. Equities are not per se covered by the package rule, but such Equity instruments are often part of a package order such as covered calls. It needs to be clarified that a package order that includes Equities may be treated as package order under Article 9 and 18 MiFIR. We suggest ESMA to use the same liquidity criteria as defined in RTS 1 and RTS 2 respectively in order to assess whether a given component is liquid.

The NSA is generally supportive of ESMA's proposals as regards the definition of "**liquid market as a whole**", which we find well-calibrated. In particular, we agree to the exclusion of packages in derivatives denominated in other currencies than USD, EUR and GBP. (As mentioned in our reply to ESMA's consultation on the trading obligation, we are of the firm opinion that interest rates swaps denominated in SEK should not be considered as having a liquid market under MiFIR). In addition to ESMA's proposal we recommend that all components in a package shall be denominated in the same currency (USD, EUR or GBP) in order for the package to be defined as standardized and liquid as a whole.

Moreover, to our understanding, ESMA has not included packages as liquid as a whole in cross-asset classes in the RTS, which the NSA supports. In fact, even if the individual components are admitted to trade on a regulated market, such packages are often bespoke and traded only OTC, i.e. do not fulfil the requirements of being "standardized and frequently traded". Therefore, the NSA takes the view that cross asset class packages should not be considered as having a liquid market as a whole. A cross asset class regime would probably also need to be quite complex taking into account that the components will have different pricing models and regimes for calculating SSTI, liquidity, SI thresholds etc.

Fixed income markets in the Nordics are to a large extent OTC markets where market makers provide liquidity by executing client orders against own account. Many of these investment firms



are likely to become Systemic Internalisers (SI) under MiFID II/MiFIR. Therefore, it is most welcome that ESMA has taken the opportunity to also consult on the interpretation of Article 18.11 MiFIR.

The NSA agrees with ESMA's proposal that the obligations in Article 18.1 MiFIR should only apply to SIs when the package order has "a liquid market as a whole". **A package with illiquid components should not be considered as liquid as a whole.**

We also have some comments as regards the SI regime and packages. In particular, we object to the interpretation that:

- (i) the obligations in art 18 MiFIR apply if the firm is SI in at least one of the components
- (ii) all components of the package should be above SSTI in order to be out of scope.

In fact, both of these proposals would in our opinion extend the SI obligations beyond the level 1 text in a way that significantly increases the risks incurred by SIs when providing quotes in packages. This would disincentive SIs from providing such quotes which in turn would have a negative impact on the liquidity of the market and limit the ability for clients to trade in an efficient and cost effective way. In our opinion, Article 18 obligations should only apply if the firm is SI to all the components in the package (by opt-in or by exceeding the thresholds in the delegated regulation) and it should be sufficient that one of the components in the package is above SSTI in order for the obligations not to apply.

Although not discussed in the CP, we would also like to underline that ESMA in its ongoing work should consider how the proposed rules on package orders will **interact with other requirements in MiFID II/MiFIR such as post trade publication and execution quality.**

As regards **post trade publication**, RTS 2 requires that post trade information is made public in relation to each individual components of the package. However, it is unclear how this requirement should be applied if both counterparties are SI to all (or some) components of the package. The general rule under MiFIR is that it is the SI-seller that is subject to the publication obligations. However, what will apply for packages which consists of both selling and buying components and what if both parties are SI in all or some of these components? Moreover, what will be the effect if the firms use different APAs which do not have information on the status of the counterparty? Taking into account that over-reporting is not allowed and MiFIR does not allow parties to agree on the publication responsibilities, it is important with further guidance on this topic. It is NSA's view that only one of the parties should be responsible for publication of the post trade information in a package i.e. for all the component trades.

In this connection, we would also like to underline that even if the above issue concerns post trade publication, it has a close connection with Q1 in ESMA's CP, i.e. whether a firm should be SI for all the components in the package or not. In fact, if ESMA stays with the interpretation that a firm shall apply the rules in Article 18 even if it is not SI in all of the components in the package order, the question arises if it should automatically also publish trades in the capacity of SI even if it is not registered as an SI for the component instruments. Such an interpretation would in our opinion be a technically complicated to implement from a systemic point of view and could also risk to undermine the benefits of having ESMA's register of SIs. Thus, also for this reason it is preferred that SI obligations only to apply to packages where the firm is SI in each of the components.

Moreover, the NSA notes that **the requirement to publish execution quality reports** apply to transactions in financial instruments i.e. per ISIN. As there is no ISIN for packages, there should in our view not be any reporting obligation under RTS 27 for package orders. Moreover, as the

price of the components is based on the package, it is likely to often deviate from the market price. Publication of the price of the individual components will therefore not provide clients with usable information in order to evaluate best execution. In fact, it is more likely that this information on component level will confuse the clients as they will not see that the price is a result of a package trade. At the next revision of RTS 27 (which we also for other reasons hope to take place as soon as possible), the treatment of package orders/transactions could be looked into and, if deemed appropriate, a tailored regime for packages be introduced. But until then, there should be no obligation to publish reports under RTS 27 for package orders or transactions.

It is not clear to NSA how the rules on package orders interact with the cross selling requirements in Article 25.11 MiFID II and **ESMA's Guidelines on Cross Selling**. To our understanding, an SI will (if prompted for a quote and it agrees to provide a quote) provide a firm quote for a package that is "liquid as a whole" and also publish this information to the market (Article 18.1 MiFIR). But do the rules in Article 25.11 MiFID II require the firm to also provide clients (retail or professional) in each particular case with information on the price of the individual components where the firm also trade in these separately? It would in our opinion not be a workable requirement in practice.

We also seek clarification if all components of a package order need to be "**traded on a trading venue**" in order for the rules in Article 18 MiFIR to apply? We understand that ESMA is currently working on more guidance on this concept (which is fundamental for the understanding of the transparency rules in general). This level 3 work should also include packages. Moreover, we note that the concept used by ESMA in paragraph 51 (i) of the CP is different from the scope of the transparency regime. In fact, ESMA proposes that the rules on "liquid as a whole" should be applicable to instruments that are "admitted to trade or traded on a venue" whereas Articles 9 and 18 MiFIR are applicable to instruments "traded on a trading venue". If a difference is intended that should be explained and motivated by ESMA in the final report. The NSA cannot see any reason why the scope should not be the same.

Finally, in order for investment firms and competent authorities to have a common approach as regards **package orders in FX**, further guidance is needed on what is a FX derivative as opposed to "a means of payment" (Article 10 delegated regulation MiFID II). In our opinion, the requirements in Article 10 are cumulative and need to be fulfilled on a specific contract level. The intention of Article 10 is to exclude means of payments that fulfills these requirements, and in particular, are entered into for the purpose of facilitating payments of goods services and investments, i.e. FX transactions that have no speculative purpose. Thus, an OTC-contract should be able to be considered as a means of payment in a specific situation even if the same type of contract is traded on a venue somewhere in the EU where it is considered as a financial derivative. Moreover, FX forward transactions (which are entered into in order to hedge an underlying commercial exposure) are a means of payment between the investment firm and the non-financial counterparty, indeed entered into in order to facilitate payment for identifiable goods, services or direct investments and should therefore not be considered financial instruments in this context. Physically settled FX forwards are basically no different from FX spot transactions except that the maturity is longer.

< ESMA_COMMENT_MIFID_PO_0 >

Q1. Do you agree with ESMA's proposal to apply the SI obligations at the package order level where the investment firm is an SI in at least one component instrument of the package order? If not, please explain why and propose an alternative.

<ESMA_QUESTION_MIFID_PO_1>

SI in at least one component

No, we do not agree. An investment firm should need to be SI in all components in a package in order to get SI obligations for the whole package. Another interpretation would in NSA's opinion extend the SI obligations beyond the level 1 text.

In fact, according to MiFIR there are two ways to become an SI: opt-in or that the investment firm has exceeded the SI thresholds set forth on level 2. In both cases, the firm shall notify the CA and is then given some time to prepare e.g. ensure that it has the right IT-systems in place etc.

We also believe that ESMA's proposal would significantly increase the risks incurred by SIs when providing quotes in packages. This would disincentive SIs from providing such quotes and maybe from becoming SIs in instruments which are commonly used as components in packages. This could in turn have a negative impact on the liquidity of the market and limit the ability for clients to trade in an efficient and cost effective way.

"Liquid market as a whole"

The NSA supports the proposal that for package orders, the provisions in Article 18.1 MiFIR should apply only for packages which are considered "liquid as a whole" according to the new RTS. A package where at least one component is illiquid should however not be classified as "liquid as a whole". Such interpretation would increase the risks of the SI and hence make it less inclined to provide quotes in packages which in turn would have a negative effect on the liquidity, see above.

SSTI

The NSA does not agree with ESMA that all components should be above SSTI. In our view, it should be sufficient that one of the components is above SSTI in order for the exemption to apply.

Effect on other publication/reporting rules

As further developed under General Comments above, ESMA should also consider which consequences its proposal regarding package orders will have on the application of other parts of the MiFID II/MiFIR regulation. Does the status as a package order signify that the firm should also publish post trade information for all the component trades as an SI (i.e. even if the firm is not SI for these individual components?). Such interpretation would, in NSA's opinion, create a very complex reporting system and unnecessary legal uncertainty regarding the status of the firm.

It should also be clarified which firm shall publish post trade information when two SIs trade with each other, taking into account that they each can be SIs for all or different components of the package order and that different APAs can be involved which do not have any information on the status of firm's counterparty.

As regards RTS 27, the NSA notes that the requirement to publish execution quality reports apply to transactions in financial instruments i.e. per ISIN. As there is no ISIN for packages, there should in our view not be any reporting obligation under RTS 27 for package orders.



<ESMA_QUESTION_MIFID_PO_1>

Q2. Do you agree with the proposed methodology based on qualitative criteria? Do you consider an alternative methodology as better suited for identifying liquid package orders as a whole?

<ESMA_QUESTION_MIFID_PO_2>

Yes. The NSA would like to stress that it is very important from a convergence perspective that ESMA publishes a list of non-exhaustive examples on level 3 (See Paragraph 50 on page 18 of the CP)

<ESMA_QUESTION_MIFID_PO_2>

Q3. Do you agree with the general criteria for identifying package orders that may be eligible for being liquid as a whole? Do you consider necessary to add further criteria or to remove any of the criteria proposed? Please explain.

<ESMA_QUESTION_MIFID_PO_3>

Yes.

For the avoidance of doubt, it could be clarified both in the CP and the RTS that the criteria are cumulative. See also reply to Q 26. TYPE YOUR TEXT HERE

<ESMA_QUESTION_MIFID_PO_3>

Q4. Do you consider it necessary to further specify the first criterion on the standardisation of components? If yes, which characteristics should be considered to specify the standardised components of packages?

<ESMA_QUESTION_MIFID_PO_4>

If all instruments need to be admitted to trade or traded on a venue, the NSA sees no need for additional criteria on the standardisation.

The NSA notes that ESMA uses different scope in the general criteria (i) compared to the scope of the pre- and post trade transparency requirements in MiFIR. In fact, ESMA proposes that the rules on “liquid as a whole” should be applicable to instruments that are “admitted to trade or traded on a venue” whereas Articles 9 and 18 MiFIR are applicable to instruments “traded on a trading venue”. If any difference is intended that should be explained and motivated by ESMA in the final report. The NSA cannot see any reason why the scope should not be the same.

<ESMA_QUESTION_MIFID_PO_4>

Q5. Do you agree with the proposed interest rate derivatives specific criteria? If not, please explain why and present your preferred approach. Do you consider it necessary to add further criteria? If yes, please explain.

<ESMA_QUESTION_MIFID_PO_5>

Yes, we agree to the criteria but propose to add one further criteria: all components in a package need to be denominated in the same currency (USD, EUR or GBP) in order for the package to be defined as standardised and liquid.

<ESMA_QUESTION_MIFID_PO_5>

Q6. Do you consider that derivative components in other currencies (e.g. other EEA currencies, JPY) should be included? If yes, which ones?

<ESMA_QUESTION_MIFID_PO_6>

No. We support the proposal only to include USD, EUR and GBP and not other EEA currencies. As mentioned in our reply to ESMA's consultation on trading obligation for derivatives, the NSA takes the firm view that interest rates in SEK are not sufficiently liquid under MiFIR.

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<ESMA_QUESTION_MIFID_PO_6>

Q7. Do you agree that only packages with derivative components with the above mentioned benchmark dates should be considered liquid? If not, please explain. Which other or additional benchmark dates do you suggest?

<ESMA_QUESTION_MIFID_PO_7>

Yes, we agree.

<ESMA_QUESTION_MIFID_PO_7>

Q8. Do you consider that for certain types of packages derivative components that have broken dates (e.g. invoice spreads) or which are traded on IMM and MAC dates (e.g. rolls) have a liquid market?

<ESMA_QUESTION_MIFID_PO_8>

No comments.

<ESMA_QUESTION_MIFID_PO_8>

Q9. Do you consider it necessary to specify criteria for non-derivative components of packages? If yes, which criteria would you suggest and why?

<ESMA_QUESTION_MIFID_PO_9>

We consider the interest rate related criteria to solely focus on derivatives.

We therefore find a need for ESMA to (1) clarify whether other types of asset classes than asset classes mentioned in the CP – for example Bonds and Equities – are subject to be package orders and (2) in case other asset classes are subject to be package orders a need for ESMA to specify criteria for when to define these as liquid packages. (See also reply to Q 23 regarding cross-asset class)

Should Bonds and Equities be subject to be considered as package orders, we would suggest ESMA to use the same liquidity criteria as defined in RTS 1 and RTS 2 under MiFID in order to access whether a given component is liquid.

<ESMA_QUESTION_MIFID_PO_9>

Q10. Do you agree with the proposed equity derivatives specific criteria? If not, please explain why and present your preferred approach. Do you consider it necessary to add further criteria? If yes, please explain.

<ESMA_QUESTION_MIFID_PO_10>

Yes, we agree to the criteria but propose to add one further criteria: all components in a package need to be denominated in the same currency (USD, EUR or GBP) in order for the package to be defined as standardised and liquid. See also Q 5.

Moreover, it needs to be clarified that these criteria also apply when cash Equity instrument are part of the package order, see Q 23.

<ESMA_QUESTION_MIFID_PO_10>

Q11. Do you consider that derivative components in other currencies (e.g. other EEA currencies, JPY) should be included? If yes, which ones?

<ESMA_QUESTION_MIFID_PO_11>

No. We support the proposal only to include USD, EUR and GBP and not other EEA currencies.

<ESMA_QUESTION_MIFID_PO_11>

Q12. Do you consider it necessary to specify that all components of the package order should have the same underlying? If yes, please explain.

<ESMA_QUESTION_MIFID_PO_12>

No. Equity package transactions will often consist of derivatives based on different Equities or Equity indexes.

<ESMA_QUESTION_MIFID_PO_12>

Q13. Do you agree with the proposed credit derivatives specific criteria? If not, please explain why and present your preferred approach. Do you consider it necessary to add further criteria? If yes, please explain.

<ESMA_QUESTION_MIFID_PO_13>

Yes, we agree.

<ESMA_QUESTION_MIFID_PO_13>

Q14. Do you agree that derivative components in USD, EUR or GBP should be considered sufficiently liquid for the purpose of this RTS? Do you consider that derivative components in other currencies (e.g. other EEA currencies, JPY) should be included? If yes, which ones?

<ESMA_QUESTION_MIFID_PO_14>

No. We support the proposal only to include USD, EUR and GBP and not other EEA currencies.

<ESMA_QUESTION_MIFID_PO_14>

Q15. Do you consider it necessary to further specify the indices that are eligible? If yes, please specify which specific indices should be included. Do you consider it necessary to specify the maturity dates of the underlying indices?

<ESMA_QUESTION_MIFID_PO_15>
No comments.
<ESMA_QUESTION_MIFID_PO_15>

Q16. Do you agree with the proposed commodity derivatives specific criteria? If not, please explain why and present your preferred approach. Do you consider it necessary to add further criteria? If yes, please explain.

<ESMA_QUESTION_MIFID_PO_16>
No comments
<ESMA_QUESTION_MIFID_PO_16>

Q17. Do you consider that derivative components in other currencies (e.g. other EEA currencies, JPY) should be included? If yes, which ones.

<ESMA_QUESTION_MIFID_PO_17>
No. We support the proposal only to include USD, EUR and GBP and not other EEA currencies.
<ESMA_QUESTION_MIFID_PO_17>

Q18. In which types of contracts do package orders in commodity derivatives mostly occur? Do you consider it necessary to provide for asset class specific criteria that take option and future/forward contracts into account? If yes, please explain.

<ESMA_QUESTION_MIFID_PO_18>
No comments.
<ESMA_QUESTION_MIFID_PO_18>

Q19. Do you consider it necessary to develop criteria at a more granular level (e.g. energy derivatives, agricultural derivatives) to better reflect the particularities of package orders in the different sub-asset classes? If yes, please explain.

<ESMA_QUESTION_MIFID_PO_19>
No comments.
<ESMA_QUESTION_MIFID_PO_19>

Q20. Do you consider it necessary to specify that all components of the package order should have the same underlying? If yes, please explain at which level this concept

of “same underlying” should apply (e.g. same asset class, same sub-asset class, same sub-class – as per Annex III of RTS 2 – or at or more granular level).

<ESMA_QUESTION_MIFID_PO_20>

No comments.

<ESMA_QUESTION_MIFID_PO_20>

Q21. Are there package orders in other derivative asset classes that are in your view standardised and frequently traded and which should be eligible for having a liquid market as a whole? If yes, what asset class specific criteria do you suggest for those?

<ESMA_QUESTION_MIFID_PO_21>

No comments.

<ESMA_QUESTION_MIFID_PO_21>

Q22. Do you agree with the approach proposed for FX derivatives or do you consider it necessary to include an asset-class specific approach for FX derivatives?

<ESMA_QUESTION_MIFID_PO_22>

No, we do not consider it necessary to include an asset-specific approach for FX derivatives. Moreover, as mentioned in the General Comments, in order to have a common approach as regards package orders in FX, further guidance is needed on what is a FX derivative as opposed to “a means of payment” (Article 10 delegated regulation MiFID II). In our opinion, the requirements in Article 10 are cumulative and need to be fulfilled on a specific contract level. The intention of Article 10 is to exclude means of payments that fulfill these requirements, and in particular, are entered into for the purpose of facilitating payments of goods services and investments, i.e. FX transactions that have no speculative purpose. Thus, an OTC-contract should be able to be considered as a means of payment in a specific situation even if the same type of contract is traded on a venue somewhere in the EU where it is considered as a financial derivative. Moreover, FX forward transactions (which are entered into in order to hedge an underlying commercial exposure) are a means of payment between the investment firm and the non-financial counterparty, indeed entered into in order to facilitate payment for identifiable goods, services or direct investments and should therefore not be considered financial instruments in this context. Physically settled FX forwards are basically no different from FX spot transactions except that the maturity is longer

<ESMA_QUESTION_MIFID_PO_22>

Q23. How should ESMA deal with cross-asset class package orders? Should ESMA develop cross-asset class specific criteria? If yes, please specify those. Alternatively, should cross-asset class package orders be allocated to only one asset class? If yes, how?

<ESMA_QUESTION_MIFID_PO_23>

It should be clarified that also packages which consist of cash Equity/Bonds can be considered as package orders. In particular for packages which include Equity components it should be clarified that these packages also should be subject to the rules for Non-Equity in Articles 9, 18 and

11/21 MiFIR. As a consequence, the waivers and deferrals applicable for Equity instruments do not apply to instruments when included in a package.

Moreover, cross-asset class package orders should not be considered liquid as a whole. In fact, even if the individual components are admitted to trade on a regulated market, such packages are often bespoke and traded only OTC, i.e. do not fulfil the requirements of being “standardised and frequently traded”. Therefore, the NSA takes the view that cross-asset class packages should not be considered as having a liquid market as a whole. Moreover, we believe that any specific cross-asset class regime would probably also need to be quite complex taking into account that the components will have different regimes when it comes to pricing models, calculating SSTI, liquidity, SI thresholds etc.

If ESMA nevertheless wishes to develop criteria for assessing packages in cross-asset classes traded on a trading venue, the NSA believes that it is important to clarify that packages which contain illiquid instruments should not be considered as having a liquid market as a whole.

Also for cross-asset class packages, we take the view that only USD, EUR and GBP and not other EEA currencies should be included. Also, one further criteria should be added: all components in a package need to be denominated in the same currency (USD, EUR or GBP) in order for the package to be defined as standardised and liquid. A consistent approach on currencies is important.

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<ESMA_QUESTION_MIFID_PO_23>

Q24. Do you agree that package orders where all components are subject to the trading obligation for derivatives should be considered to have a liquid market as a whole? If not, please explain.

<ESMA_QUESTION_MIFID_PO_24>

The NSA has no objection per se to the proposal that packages where all the components are subject to the trading obligation is included.

<ESMA_QUESTION_MIFID_PO_24>

Q25. Do you consider that package orders where at least one component is subject to the trading obligation and all other components are subject to the clearing obligation should be considered to have a liquid market as a whole? If not, please explain.

<ESMA_QUESTION_MIFID_PO_25>

No, we firmly disagree. According to this proposal, package orders where at least one component is subject to the *trading obligation* (under MiFIR) and where all other components are subject to the *clearing obligation* under the European Market Infrastructure Regulation (EMIR) will be considered as “liquid as a whole”. ESMA seems to propose that this principle should apply regardless of all the other criteria set forth in the CP/RTS, such as currency.

Consequently, packages which include derivatives which are not liquid but subject to clearing obligation will be considered as “liquid as a whole” if only one component is subject to the trading obligation. As an example, a package of 10 yr EUR IRS (trading obligation) and 43 yr EUR IRS (not liquid but subject to clearing obligation) would be considered as “liquid as a whole”.

If this rule is kept, it is important that the other criteria apply simultaneously, i.e. the currency criteria (EUR, GBP and USD only). Furthermore, all components of the package must be in one of these currencies..

<ESMA_QUESTION_MIFID_PO_25>

Q26. Do you agree that the categories of packages above should be considered as standardised and frequently traded for the purpose of this RTS empowerment? If not, please explain.

<ESMA_QUESTION_MIFID_PO_26>

<ESMA_QUESTION_MIFID_PO_26>

Q27. Are there any categories of packages missing in the above asset classes that should be considered for the purpose of this RTS empowerment? Are there in your view categories of packages in other asset classes that ESMA should consider?

<ESMA_QUESTION_MIFID_PO_27>

No.

<ESMA_QUESTION_MIFID_PO_27>

Q28. Do you agree with the draft RTS in annex IV? If not, please explain.

<ESMA_QUESTION_MIFID_PO_28>

Yes, we basically agree to the draft RTS. However, please note that:

- To our understanding cross-asset class packages are not included in the RTS at this stage, which NSA supports (see Q 23). For the avoidance of doubt, this should be clarified in Article 3 item 5, e.g. by deleting the word “derivative” in “derivative components”,
- The scope of General Requirements should be aligned with the transparency requirements, i.e. “admitted to trade or traded on a trading venue” in Paragraph 51 i) of the CP should be identical to “traded on a trading venue” in Articles 9 and 18 MiFIR.
- It could be considered to insert an “and” between (a) and (b) in Article 3.1 to clarify that the criteria are cumulative.

<ESMA_QUESTION_MIFID_PO_28>

Q29. CBAQ1: Please identify, per asset class and per currency, the total nominal amount traded (including packages). Please also identify what % of this total trading is executed i) through packages (incl. EFPs) and ii) through packages (with only financial instruments as components), on trading venues and OTC. Reference period: September 2015–September 2016. If you are a trading venue, please fill in the trading venue columns only. If you are an investment firm, please fill in the trading venue and OTC columns as appropriate.

<ESMA_QUESTION_MIFID_PO_29>

	Total Nominal amount traded, including packages (in euros) Sept 2015-Sept 2016		% of packages (including EFPs)		% of packages (with only financial instruments as components)	
	Trading venues	OTC	Trading venues	OTC	Trading venues	OTC
Interest rate derivatives						
Euro						
USD						
GBP						
Other currencies (please specify)						
Equity derivatives						
Euro						
USD						
GBP						
Other currencies (please specify)						
Credit derivatives						
Euro						
USD						
GBP						
Other currencies (please specify)						
Commodity derivatives						
Euro						
USD						
GBP						
Other currencies (please specify)						

<ESMA_QUESTION_MIFID_PO_29>

Q30. CBAQ2: Based on ESMA draft RTS, out of the package orders (comprised only of financial instruments) that you trade, which percentage of the volume traded do you expect to be considered as having a liquid market as a whole? Please confirm which category the package orders you trade fall under:

1= less than 10% of the volume of package orders traded;

2= from 10% to 25% of the volume of package orders traded;

3= from 25% to 50% of the volume of package orders traded;

4= from 50% to 75% of the volume of package orders traded; or,

5= more than 75% of the of the volume of package orders traded.

<ESMA_QUESTION_MIFID_PO_30>

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<ESMA_QUESTION_MIFID_PO_30>

Q31. CBAQ3: In which area do you anticipate the costs of complying with ESMA' draft RTS to stem from (e.g. IT, training)?

<ESMA_QUESTION_MIFID_PO_31>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_MIFID_PO_31>

Q32. CBAQ4: Could you provide an indication of the expected implementation costs of ESMA' draft RTS (in euros) differentiating between (i) one-off costs and (ii) recurring costs (on an annual basis)?

<ESMA_QUESTION_MIFID_PO_32>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_MIFID_PO_32>

Q33. CBAQ5: In relation to the size of your business, do you expect those costs to be:

very low;

low;

medium; or,

high.



<ESMA_QUESTION_MIFID_PO_33>
 TYPE YOUR TEXT HERE
 <ESMA_QUESTION_MIFID_PO_33>

Q34. CBAQ6: Do you expect any impact from ESMA’s draft RTS on your business model/activity? If so, please explain the drivers and the expected changes to your business model/activity.

<ESMA_QUESTION_MIFID_PO_34>
 TYPE YOUR TEXT HERE
 <ESMA_QUESTION_MIFID_PO_34>

Q35. CBAQ7: Do you expect you expect broader market changes from the draft RTS in the short or medium term TO?

<ESMA_QUESTION_MIFID_PO_35>
 TYPE YOUR TEXT HERE
 <ESMA_QUESTION_MIFID_PO_35>

Q36. CBAQ8: If so, please explain

<ESMA_QUESTION_MIFID_PO_36>

Expected Impact on	Yes/No/NA	Positive Impact	Negative impact
Market structure (changes in trading models, in trading strategies...)			
Liquidity (please explain how you measure liquidity)			
End users			
Other (specify)			

<ESMA_QUESTION_MIFID_PO_36>

Q37. CBAQ9: Are their specific concerns regarding ESMA’s draft RTS you would wish to highlight? Please be as specific as possible in your answer.

<ESMA_QUESTION_MIFID_PO_37>
 TYPE YOUR TEXT HERE
 <ESMA_QUESTION_MIFID_PO_37>

Q38. CBAQ10; Are there specific benefits arising from ESMA’s draft RTS you would wish to mention?

<ESMA_QUESTION_MIFID_PO_38>
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<ESMA_QUESTION_MIFID_PO_38>

For trading venues only

Q39. CBAQ11: Do you offer trading in packages?

<ESMA_QUESTION_MIFID_PO_39>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_MIFID_PO_39>

Q40. CBAQ12: If so, please describe, per asset class, the categories of packages for which pre-trade transparency is currently provided. Please also state whether you consider those packages as liquid and the criteria taken into consideration (e.g. spreads, volume traded, number of transactions, number of market participants). If no sufficient space is available to respond, please provide the information in an annex.

<ESMA_QUESTION_MIFID_PO_40>

Package Categories with pre-trade transparency	Currency	Tenor	Reference index	Other characteristics (please identify)	Liquidity assessment (Y/N) and underlying criteria
Interest rate derivatives					
Equity derivatives					
Credit derivatives					
Commodity derivatives					
Others (please specify)					

<ESMA_QUESTION_MIFID_PO_40>